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8 UNITED STATES BANKRUPTCY COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 In Re:

11 TODD MACALUSO

12 DEBTOR

Case No.: 16-04214-LT7
Chapter 7

RESPONSE TO CHAPTER 7 TRUSTEE'S
OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTION WITH REPECT TO SAFECO
ANNUITIES; MEMORANDUM OF POINTS
AND AUTHORITIES

Date : October 5, 2017

Dept : 3

Time: 10:00 am

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18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I INTRODUCTION**

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21 Debtor is a 54 year-old attorney who has been disbarred. He is presently in Jail pending charges.
22 He is married with a 3 year-old daughter and 11 year-old son. His wife does not earn income. His current criminal
23 case is pending in New York with a trial date of October 2 2017. He filed bankruptcy on July 10 2016. Debtor had
24 obtained two annuities in year 2000 for attorney fees on a personal injury case. The annuities come due in October
25 2017. Debtor listed the annuities as part of his assets and attempts to exempt under California Code of Civil
26 Procedure Section 703.140(b)(10)(E).

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28 RESPONSE TO CHAPTER 7 TRUSTEE'S OBJECTION TO DEBTOR'S CLAIM OF EXEMPTION WITH
REPECT TO SAFECO ANNUITIES; MEMORANDUM OF POINTS AND AUTHORITIES
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1 THE ANNUITIES MAY BE EXEMPT

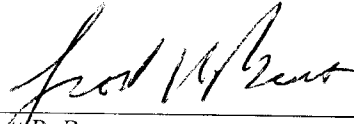
2
3 The law allows a working taxpayer to accumulate assets during his productive years so that he
4 may draw upon them in later years IN RE MCKOWN 203 BR 722 ,EASTERN District of California. And in this
5 case that is what Debtor Macaluso did. He had his attorney's fees paid into an annuity.And he withheld from
6 receiving the monies for 17 years. In In RE PIPKINS 2014 Bankr. Lexis 2654 , a debtor filed bankruptcy and was
7 paid the proceeds in the form of an annuity. The debtor failed to list properly but the court held that the Debtors
8 might be able to claim a valid exemption from the annuity under California Code of Civil Procedure Section
9 703.140(b)(10)(E). And this is the same argument that Debtor makes in this case . In that case the proceeds of the
10 law suit too will be used for an annuity that is protected under California Code of Civil Procedure Section
11 703.140(b)(10)(E). The key issue is whether the money is necessary for the support of the Debtor and any dependent
12 of the Debtor

13 The right to receive the payment was based on waiting 17 years. Thus, it is also Debtor's argument
14 that he fits under the " age" part of the Section . Debtor did not purchase and file bankruptcy with the intent to
15 defraud the creditors . Here there is a 17 year period from the time it was awarded to the time of it is supposed to be
16 paid.

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18 ARGUMENT

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21 In this case the Debtor and his family will have virtually nothing if denied the annuities. It appears
22 that an evidentiary hearing should be set to see if monies are necessary for the health and welfare of the Debtor and
23 his family. Certainly, Debtor will be open said hearing whenever possible.

Dated: September 15 2017



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